REMARKS

In the pending Office Action, Examiner Chambers has initially rejected the claims on double patenting and prior art grounds. As explained further below, it is respectfully submitted that both grounds are not appropriate in this case and should be withdrawn.

The Examiner first asserted that claim 21 of the present application was unpatentable under 35 U.S.C. § 101 over claim 8 of U.S. Patent No. 6,647,655 to Salvitti (the " '655 patent") on double patenting grounds. The Examiner acknowledged that claim 21 of the present application used the term "spring cap," while claim 8 of the '655 patent used the term "spring buffer." He supported his rejection by stating that he "interprets the cap as being the equivalent of a buffer . . . ."

Applicant respectfully submits that a prima facie case for the double patenting rejection of claim 21 in this case has not been shown. According to the MPEP,

> In determining whether a statutory basis for a double patenting rejection exists, the question to be asked is: Is the same invention being claimed twice? 35 U.S.C. 101 prevents two patents from issuing on the same invention. "Same invention" means **identical** subject matter. . . . A reliable test for double patenting under 35 U.S.C. 101 is whether a claim in the application could be **literally** infringed without **literally** infringing a corresponding claim in the patent.

MPEP 804, sec. II.A. (emphasis added and citations omitted). The test concerns identical subject matter and literal infringement, yet the current Office Action compares the language of the claims and finds them "equivalent." Indeed, the Examiner's position that items are "equivalent" seems to concede that they are not identical. Unless it can be shown that terms are identical, in the sense that 36 inches and three feet are identical (see the example in MPEP 804, sec. II.A.), a prima facie case of statutory double patenting is not present.

Further, the Office Action does not address another difference between the words of claim 21 of the present application and those of claim 8 of the '665 patent. Claim 21 recites "providing a second spring cap having a head portion configured for contact with the disablement mechanism . . . ." Claim 8 of the '665 patent, on the other hand, recites "providing a second spring buffer having an upper notch area configured for contact with the disablement mechanism . . . ." The Office Action does not provide a position on or an explanation of "identicalness" (in the sense noted above) between the "head portion" in one claim and the "upper notch area" in the other claim.

Consequently, for at least these reasons, a prima facie case for the double patenting rejection of claim 21 has not been made. The Examiner is respectfully requested to withdraw that rejection.

Turning now to the asserted double patenting rejection of claims 14-22 of the present application over U.S. Patent No. 6,269,576 to Williams (the " '576 patent"), the Examiner recognized that an issue of priority existed. The '576 patent and the application that issued as the '655 patent were involved in Salvitti v. Williams, Patent Interference No. 105,018. That interference resulted in a concession of priority to Salvitti, the named inventor in the present application. Claims 1-7 and 18-19 of the '576 patent were cancelled as a result. Based on that interference, it is stated that the present Applicant is the prior inventor. Since the issue of priority has been determined in an interference, and the claims of the '576 patent on which the double patenting rejection was based have been cancelled, the Examiner is respectfully requested to withdraw this rejection of claims 14-22 as well.

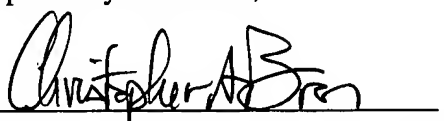
The Examiner also rejected all of the pending claims under 35 U.S.C. § 102(e) as being anticipated by the '576 patent. As noted above, in Interference No. 105,018 priority was

awarded to Salvitti, the present Applicant, over Williams, the inventor of the '576 patent. Further, in the parent to this case, Application Serial No. 09/837,922 (now the '655 patent), papers were filed to establish an invention date earlier than the filing date of the '576 patent, and to support declaration of the interference. Examination of those papers associated with the file of the parent Application Serial No. 09/837,922, in addition to the filings in and outcome of Interference No. 105,018, should therefore be sufficient to warrant withdrawal of this rejection. Applicant will be happy to submit copies of those documents if the Examiner requests.

No changes have been made to the claims in this application, and no positions have been taken concerning the scope of any pending or issued claim. Accordingly, it is believed that no limitations of claim scope have been made herein, and that Applicant is entitled to the full range of equivalents that may be applicable to the claims.

In conclusion, it is respectfully requested that the pending rejections be withdrawn, and a Notice of Allowance be issued. If there are any further matters to be addressed, the Examiner is invited to telephone the undersigned attorney to discuss the same.

Respectfully submitted,



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